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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/510,782 | 02/23/2000 | Michael Krysiak | | 3795 |

7590 06/27/2003

PHILIP M. WEISS, ESQ.
WEISS & WEISS
310 OLD COUNTRY ROAD, SUITE 201
GARDEN CITY, NY 11530

EXAMINER

NGUYEN, SON T

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3643

DATE MAILED: 06/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/510,782

Applicant(s)

KRYSIK ET AL.

Examiner

Son T. Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1,4-6,8,9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Spittle (US 5,916,027) in view of Morgan (US 6,029,395).

For claims 1 & 4, Spittle discloses a granulation method (col. 3, lines 28-30) for creating mulch comprising the steps of adding paper fibers to a mixer (col. 2, line 50 and col. 3, lines 6-13); adding NPK fortifiers before the mixer (col. 2, line 53 and col. 3, lines 16-17); mixing the paper fibers and NPK into a mixture and spraying a fine mist as the mixture is agitated (col. 3, lines 18-22); and drying contents of the mixer (see col. 3, lines 18-30). However, Spittle is silent about using a pin mixer which performs the step of mixing/tumbling, and a binding agent. Morgan teaches a mulch making method in which he employs a binding agent in his mulch mix to hold other elements, such as paper fibers and granules, in the mix together. In addition, Morgan employs a high speed mixer, e.g. rods extending from a central shaft of the mixer, similar to a pin mixer (col. 6, lines 5-8) to mix his mulch. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a high speed mixer as taught by Morgan to mix the mulch of Spittle so as to form a well mixed mulch to form granules. In addition, it would have been obvious to one having ordinary skill in the art

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at the time the invention was made to use a binding agent as taught by Morgan in the mulch mix of Spittle to hold elements in the mix together. Note, Spittle states that one can use any known granulation equipment (col. 3, lines 29-30), therefore, a high speed mixer or pin mixer as taught by Morgan is a known granulation equipment to mix mulch composition into granules.

For claim 5, Spittle as modified by Morgan is silent about employing a pin mixer having a double helix pin arrangement. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a double helix pin arrangement mixer to mix the mulch composition of Spittle as modified by Morgan, depending on the user's preference for his/her intended use as long as it is a granulation equipment as indicated by Spittle (col. 3, line 30).

For claim 6, Spittle as modified by Morgan (emphasis on Spittle) further discloses the paper fibers comprises a by-product of a paper making process (col. 3, lines 6-14).

For claim 8, Spittle as modified by Morgan discloses a granulated mulch product made by mixing and tumbling operation as stated in the above.

For claim 9, Spittle as modified by Morgan (emphasis on Spittle) further discloses the step of performing a size reduction operation on the paper fibers prior to adding the fibers to the mixer (col. 3, lines 6-15).

3. **Claim 2** is rejected under 35 U.S.C. 103(a) as being unpatentable over Spittle as modified by Morgan as applied to claim 1 above, and further in view of Moore (US 5,266,097). Spittle as modified by Morgan is silent about employing a pan pelletizer in place of the pin mixer. Moore teaches a fertilizer method and composition which he

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mixes the ingredients in the composition in a pan mixer until the composition formed into a spherical granules (see example 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a pan pelletizer as taught by Moore to mix the mulch composition of Spittle as modified by Morgan, depending on the user's preference for his/her intended use as long as it is a granulation equipment as indicated by Spittle (col. 3, line 30).

4. **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over Spittle as modified by Morgan as applied to claim 1 above, and further in view of Clendinning et al. (US 3,901,838). Spittle as modified by Morgan is silent about employing a paddle mixer in place of the pin mixer. Clendinning et al. teach a mulch film method and composition in which they employ a paddle mixer to mix the ingredients in the composition together (col. 13, lines 29-34). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a paddle mixer as taught by Clendinning et al. to mix the mulch composition of Spittle as modified by Morgan, depending on the user's preference for his/her intended use as long as it is a granulation equipment as indicated by Spittle (col. 3, line 30).

5. **Claim 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over Spittle as modified by Morgan as applied to claim 1 above, and further in view of Decker (US 5,806,445). Spittle as modified by Morgan are silent about using sewage sludge in place of the paper fibers. Decker teaches in col. 2, lines 10-13, that sewage sludge is proven to be a very effective mulch media because it is plentiful, inexpensive, easy to handle and rich in nutrients. It would have been obvious to one having ordinary skill in the art

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at the time the invention was made to substitute sewage sludge as taught by Decker for the paper fibers of Spittle as modified by Morgan in order to reduce cost and ease of handling and still produce an effective mulch.


Response to Arguments

6. Applicants' arguments filed 5/15/03 have been fully considered but they are not persuasive. The declarations of Mr. Lee Hoffman and Mr. Engelleitner have been considered by the Examiner. However, the declarations are not persuasive over the Spittle patent. Since the same arguments have been presented in the response filed 5/15/03 as in the final rejection, paper #15, applicants are encourage to refer to the final rejection. The rejection above reflects minor change in a sense that the Thomas patent is not relied upon because Morgan teaches a high speed mixer or pin mixer, thus, relying on Thomas is not necessary. Although the declarations repeatedly state that the Spittle patent teaches a pressure agglomeration technique and not an agitation process as claimed by applicants, the Spittle patent does not state a pressure agglomeration technique. Instead, Spittle teaches to use any known granulation equipment and does not specifically state only a pressure agglomeration method. The Examiner realizes that Mr. Hoffman and Mr. Engelleitner are experts in the field of mulching and respects their opinions but if Spittle does not teach it in his patent, it would be hard for one to assume so. Perhaps in making the mulch, Spittle preferred using pressure agglomeration as his choice of granulation equipment, thus perhaps that may lead to applicants' conclusion that Spittle only teaches pressure agglomeration. The problem is that Spittle's patent never stated just pressure agglomeration, therefore, it would be obvious to one of

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ordinary skill in the art to use any known type of granulation equipment as long as it performs the function intended and that is to make granule mulch. In addition, applicants' claim language never stated that applicants' invention is a single step tumble process; instead, the claim broadly state "An agglomeration/granulation method...comprising", which indicates any granulation method and does not specifically state single step tumble process that utilizes a high speed mixer as indicated in the response filed 5/15/03. Furthermore, the claim indicate "comprising" which is open to other step(s) and not just a single step.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 9:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


Son T. Nguyen
Patent Examiner, GAU 3643
June 25, 2003